

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ABCELLERA BIOLOGICS INC, et al.,
Plaintiffs,
v.
BERKELEY LIGHTS, INC.,
Defendant.

Case No. 20-CV-08624-LHK

**ORDER GRANTING MOTION TO
STAY CASE PENDING INTER
PARTES REVIEW**

Re: Dkt. No. 103

Before the Court is Defendant Berkeley Lights, Inc.’s (“Defendant”) Motion to Stay Case Pending Inter Partes Review (“IPR”) filed on July 25, 2021. ECF No. 103 (“Mot.”). Defendant states that it has timely filed three petitions for IPRs with the Patent Trial and Appeal Board (“PTAB”) at the U.S. Patent and Trademark Office challenging nearly all the asserted claims of three patents-in-suit as invalid. *Id.* at 2. Plaintiff AbCellera Biologics Inc. (“Plaintiff”) opposed on August 5, 2021. ECF No. 114. Defendant filed a reply on August 12, 2021. ECF No. 118. Having considered the parties’ submissions, the relevant law, and the record in this case, the Court GRANTS Defendant’s motion and STAYS the instant case until resolution of the IPRs.

The power to stay proceedings in a case is a matter within the Court's discretion. *See Good v. Prudential Ins. Co. of Am.*, 5 F. Supp. 2d 804, 806 (N.D. Cal. 1998) (citing *Landis v.*

1 *Am. Water Works & Elec. Co.*, 299 U.S. 248, 254–55 (1936)). “Courts have inherent power to
2 manage their dockets and stay proceedings, including the authority to order a stay pending
3 conclusion of a PTO reexamination.” *Finjan, Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032, 1035
4 (N.D. Cal. 2015) (quoting *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426–27 (Fed. Cir. 1988)).
5 Courts have recognized “a liberal policy in favor of granting motions to stay proceedings pending
6 the outcome of USPTO reexamination or reissuance proceedings.” *Id.* (citation omitted).

7 Courts consider three factors when determining whether to grant a stay pending IPR. The
8 first factor is whether the litigation has progressed significantly enough for a stay to be disfavored.
9 *See AT&T Intellectual Prop. I v. Tivo, Inc.*, 774 F. Supp. 2d 1049, 1052 (N.D. Cal. 2011) (granting
10 stay where parties had not exchanged expert reports and court had not held claim construction
11 hearing). Here, the parties have not yet filed any of their claim construction briefs, which
12 demonstrates that the case is still in its early stages. ECF No. 99 (“Case Management Order”).
13 Additionally, the parties are still at the beginning of fact discovery. According to Defendant,
14 Plaintiff had produced only 261 documents as of August 5, 2021. ECF No. 118-1.

15 The second factor is whether granting a stay could simplify the litigation. *Finjan*, 139 F.
16 Supp. 3d at 1035 (citation omitted). “A stay may also be granted in order to avoid inconsistent
17 results . . . or avoid needless waste of judicial resources.” *Evolutionary Intelligence LLC v. Apple,*
18 *Inc.*, 2014 WL 93954, at *2 (N.D. Cal. Jan. 9, 2014). Here, Plaintiff has asserted seven patents,
19 including U.S. Patent No. 10,087,408 and two related patents (“the ’408 family”). Because the
20 pending IPRs could result in invalidation of all the asserted claims of the ’408 family, the second
21 factor weighs in favor of a stay. Although the PTAB has not yet instituted the IPRs, courts
22 routinely stay lawsuits pending institution decisions. *PersonalWeb Tech., LLC v. Apple Inc.*, 69 F.
23 Supp. 3d 1022, 1027 (N.D. Cal. 2014).

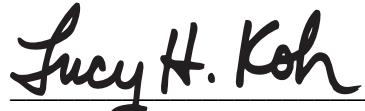
24 Finally, the third factor—whether a stay prejudices Plaintiff or gives Defendant a clear
25 tactical advantage—does not weigh against a stay at this early litigation stage. *Id.* at 1029
26 (collecting cases for proposition that “delay necessarily inherent in any stay” does not constitute
27 undue prejudice). Moreover, Defendant filed its motion to stay just two weeks after filing its IPR

1 petitions, and there is no evidence of gamesmanship on Defendant's part. *See* Mot. at 3.

2 Therefore, the Court, in its discretion, hereby STAYS the case until the Court orders
3 otherwise. The parties shall inform the Court within two business days of the PTAB's completion
4 of the three IPRs. The Clerk shall administratively close the file. This is a purely administrative
5 procedure that does not affect the rights of the parties.

6 **IT IS SO ORDERED.**

7
8 Dated: August 26, 2021



LUCY H. KOH
United States District Judge

United States District Court
Northern District of California